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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,341	04/09/2004	James C. Pawloski	J-3676A	9988
28165	7590	06/18/2007		
S.C. JOHNSON & SON, INC. 1525 HOWE STREET RACINE, WI 53403-2236			EXAMINER PASCUA, JES F	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 06/18/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/821,341	Applicant(s) <i>Sr</i> PAWLOSKI, JAMES C.	
	Examiner Jes F. Pascua	Art Unit 3782	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>See Continuation Sheet</u> . | 6) <input type="checkbox"/> Other: _____  |

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :7/15/04, 9/8/05, 8/8/06, 2/22/07.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 22 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification fails to provide an adequate written description of the first and second closure mechanisms such that the first closing force of the first male and female closure elements is less than the second closing force of the second male and female elements.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In the second subparagraph of claims 1, 15, 20 and 23, "the first male and first female closing elements" lack antecedence.

In claim 22, the functional recitation that "the first closing force of the first male and female closure elements is less than the second closing force of the second male and female elements" is indefinite because it is not supported by recitation in the claim of sufficient structure to accomplish the function; especially since the male closure element of the first closure mechanism includes two hook portions and the male closure element of the second closure element includes only one hook portion.

Claims that have not been specifically mentioned are rejected since they depend from claims rejected under 35 U.S.C. § 112, second paragraph.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 5, 6, 8, 10, 12, 13, 15-17, 19-21 and 23-26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by U.S. Patent No. 4,578,813 to Ausnit (hereafter referred to as Ausnit '813).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4, 11 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausnit '813 and U.S. Patent No. 5,647,100 to Porchia et al. (hereafter referred to as Porchia et al. '100).

Ausnit '813 discloses the claimed device except for the closure mechanism with the male closure element including two hook portions (i.e., first closure mechanism) having the characteristic comprising a clicking feel when the pouch is closed. Porchia et al. '100 discloses that it is known in the art to provide an analogous closure mechanism with indentations. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the first closure mechanism of Ausnit '813 with the indentations of Porchia et al. '100, in order to for the first closure mechanism to comprise a clicking feel when the pouch is closed.

Regarding claim 11, Porchia et al. discloses that the closing force of a closure mechanism with indentations is in a range from about 0.16 to about 0.22 pounds force (column 8, lines 17-25). Furthermore, the closing force of the second closure mechanism of Ausnit '813 would at least be half of the closing force (e.g. 0.08 to a about 0.11 pounds force) in the first closure mechanism due to the male closure element of the second closure mechanism having only one hook portion. Therefore,

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providing the first closure mechanism of Ausnit '813 with the indentations of Porchia et al. '100, as discussed above, would inherently result in an overall closing force in the range of 0.20 to about 0.30 pound force.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ausnit '813.

Ausnit '813 discloses the claimed invention except for the first closure mechanism (18) being disposed nearer a top of the pouch than the second closure mechanism (17). It would have been obvious to one having ordinary skill in the art at the time the invention was made to locate the first closure mechanism nearer a top of the pouch than the second closure mechanism, since it has been held that rearranging parts of an invention involves only routine skill in the art.

10. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ausnit '813 and U.S. Patent No. 6,167,597 to Malin (hereafter referred to as Malin '597).

Ausnit '813 discloses the claimed device except for each of the first female closure element being adjacent the second closure female element on the first bag wall and the first male closure element being adjacent the second closure male element on the second bag wall. Malin '597 discloses that it is known in the art to provide the first female closure element adjacent the second closure female element on the first bag wall and the first male closure element adjacent the second closure male element on the second bag wall. It would have been obvious to one having ordinary skill in the art

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at the time the invention was made to provide the first female closure element being adjacent the second closure female element on the first bag wall and the first male closure element being adjacent the second closure male element on the second bag wall in Ausnit '813, as in Malin '597, since applicant has not disclosed that such an arrangement of known closure mechanisms solves any stated problem or is for any particular purpose and it appears that the Ausnit would perform equally well with the first female closure element being adjacent the second closure female element on the first bag wall and the first male closure element being adjacent the second closure male element on the second bag wall.

11. Claims 14 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ausnit '813.

Ausnit '813 discloses the claimed invention, especially the first female element being substantially symmetric about a longitudinal centerline. However, Ausnit '813 does not show the second female element (34, 38) also being substantially symmetric about a longitudinal centerline. It would have been an obvious matter of design choice to make the second female element of Ausnit '813 substantially symmetric about a longitudinal centerline, since applicant has not disclosed that a second female closure element being substantially symmetric about a longitudinal centerline (eventhough the second male closure element is asymmetric and capable of engaging only one hook portion of a symmetric female closure element) solves any stated problem or is for any particular purpose and it appears that Ausnit '813 would perform equally well with the



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second female closure element being substantially symmetric about a longitudinal centerline.

***Allowable Subject Matter***

12. Claim 22 would be allowable if rewritten to overcome the rejections under 35 U.S.C. 112, 1st and 2nd paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Applicant is duly reminded that a complete response must satisfy the requirements of 37 C.F. R. 1.111, including: "The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. A general allegation that the claims "define a patentable invention" without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Moreover, "The prompt development of a clear Issue requires that the replies of the applicant meet the objections to and rejections of the claims." Applicant should also specifically point out the support for any amendments

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made to the disclosure. See MPEP 2163.06 II(A), MPEP 2163.06 and MPEP 714.02.

The "disclosure" includes the claims, the specification and the drawings.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jes F. Pascua whose telephone number is 571-272-4546. The examiner can normally be reached on Mon.-Thurs..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Jes F. Pascua  
Primary Examiner  
Art Unit 3782

JFP